

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Ricky Moore,

Plaintiff,

Case No. 23-11815

v.

Judith E. Levy

United States District Judge

J. Saph, *et al.*,

Mag. Judge Kimberly G. Altman

Defendants.

_____/

ORDER ADOPTING REPORT AND RECOMMENDATION [19]

Before the Court is Magistrate Judge Kimberly G. Altman's Report and Recommendation recommending the Court grant Defendants Jay Saph, Erin Parr-Mirza, and Patricia Lamb's motion to dismiss for failure to state a claim or alternatively for summary judgment on the basis of exhaustion. (ECF No. 19.)

The parties were required to file specific written objections, if any, within 14 days of service. Fed. R. Civ. P. 72(b)(2); E.D. Mich. L.R. 72.1(d). No objections were filed. The Court has nevertheless carefully reviewed the Report and Recommendation and concurs in the reasoning and result. Specifically, the Court agrees with Judge Altman's recommendation that

Saph, Parr-Mirza, and Lamb's motion to dismiss for failure to state a claim be granted, and that they be dismissed from the case, with prejudice.¹ (ECF No. 19, PageID.137.)

Accordingly, the Report and Recommendation (ECF No. 19) is ADOPTED, and Defendants' motion to dismiss is GRANTED.² (ECF No. 15.) Defendants Saph, Parr-Mirza, and Lamb are DISMISSED from this case WITH PREJUDICE.

IT IS SO ORDERED.

Dated: May 15, 2024
Ann Arbor, Michigan

s/Judith E. Levy
JUDITH E. LEVY
United States District Judge

¹ Judge Altman also recommended, in the alternative, that Defendants' motion for summary judgment for failure to exhaust be granted. (ECF No. 19, PageID.137.), While the Court agrees with Judge Altman's analysis, Defendants' motion for summary judgment will be denied as moot because the Court is granting Defendants' motion to dismiss.

² By failing to object to the Report and Recommendation, the parties have forfeited any further right of appeal on these issues. *United States v. Wandahsega*, 924 F.3d 868, 878 (6th Cir. 2019); *see also Berkshire v. Beauvais*, 928 F.3d 520, 530 (6th Cir. 2019).

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or first-class U.S. mail addresses disclosed on the Notice of Electronic Filing on May 15, 2024.

s/William Barkholz
WILLIAM BARKHOLZ
Case Manager